



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

### B. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### *Per Diem and Subsistence Allowances*

Sections 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons. "Agencies" are defined as any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.<sup>1</sup> It places a variety of conditions on the travel that may be paid and what amounts may be paid.

The Florida Statutes list three types of travel: Class A, B, and C.

- Class A travel is continuous travel of 24 hours or more away from official headquarters.<sup>2</sup> The travel day for Class A is based on a calendar day (midnight to midnight). The per diem allowance for Class A travel is currently \$50.00.<sup>3</sup>
- Class B travel is continuous travel of less than 24 hours which involves overnight absence away from official headquarters.<sup>4</sup> The per diem is \$50.00, pro-rated based on 6-hour periods; for instance, an overnight traveler returning at noon could receive \$25.00 per diem.
- Class C travel is short or day trips in which the traveler is not away from his or her official headquarters overnight.<sup>5</sup>

The Legislature set the per diem and subsistence allowances in 1981; the amounts have been unchanged since then.<sup>6</sup> Adjusted for inflation, the value of the per diem in 2005 would be \$88.62 and the values of the subsistence allowances in 2005 would be \$6.29, \$12.59, and \$25.17.

##### *Mileage*

Travelers using privately-owned vehicles are entitled to a mileage allowance of 29 cents per mile or the common carrier fare for the travel, as determined by the agency head.

##### *Health Plan Services*

The statutes that authorize the state to contract with health maintenance organizations (HMO) are general in nature. HMO contracts are required to address "radiologic services" but do not specify that open magnetic resonance imaging services be provided.

---

<sup>1</sup> Section 112.061(2)(a).

<sup>2</sup> Section 112.061(2)(k).

<sup>3</sup> However, if actual expenses exceed the allowable per diem, the amount allowed for meals for Class C travelers, plus actual expenses for lodging at a single occupancy rate may be paid.

<sup>4</sup> Section 112.061(2)(l).

<sup>5</sup> Section 112.061(2)(m). Section 112.061(5)(d) barred Class C travelers from receiving either per diem or subsistence allowances during the 2004-2005 fiscal year.

<sup>6</sup> *West's Florida Statutes Annotated*, s. 112.061, F.S.

## Proposed Changes

The bill creates distinctions between “state agencies” and “nonstate agencies” and “state travelers” and “nonstate travelers”; however, the bill does not define the terms.

The bill changes:

- The per diem allowances to \$90 for state travelers and up to \$90 for nonstate travelers.
- The subsistence allowances to \$5 for breakfast, \$11 for lunch, and \$23 for dinner for state travelers and nonstate travelers.
- The mileage allowance to 38 cents per mile for state travelers and nonstate travelers.

The bill makes the Class C Travel per diem exclusion permanent.

The bill also allows participants in the state group health insurance program’s plans the option of using an open magnetic resonance imaging service when magnetic resonance imaging services are deemed appropriate by the referring physician.

### C. SECTION DIRECTORY:

Section 1 amends s. 110.123, F.S., to require health providers under the state health insurance program to allow physicians to prescribe magnetic resonance imaging services to covered employees.

Section 2 amends s. 112.061, F.S., to provide revised per diem, subsistence, and mileage allowances for travelers and removes language allowing Class C Travel reimbursement for per diem.

Section 3 provides an effective date of July 1, 2005.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See D. Fiscal Impact

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None. This bill does not create, modify, amend, or eliminate a local revenue source.

#### 2. Expenditures:

Indeterminate. Local governments would not be required but could choose to increase or decrease the per diem, subsistence, and mileage they pay to their travelers. It is unknown which local governments would choose to change their allowances and by what amount.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Indeterminate since it is unknown the degree to which travelers will adjust their spending. If agencies increase the allowances, some travelers may increase their spending while traveling and businesses such as restaurants would benefit. However, for travelers who have been supplementing the payment with their personal funds, the increased allowances may fully or partially supplant the personal spending with the result of lesser or no net

increase in spending by those travelers. Similarly, if local governments chose to decrease their allowances, travelers may choose to either reduce spending, which would negatively impact businesses, or partially or fully supplant the reduced allowances with personal funds, which could have lesser or no negative impact.

D. FISCAL COMMENTS:

The annual fiscal impact on state government of the per diem changes is estimated to be \$10.7 million to the General Revenue Fund and \$9.3 million to state trust funds. Prescribing magnetic resonance imaging services will have an indeterminate fiscal impact on health insurance premiums.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to provide higher allowances to travelers. Additionally, Attorney General Opinion 2003-01 noted that the travel reimbursement rates established in s. 122.061, F.S., are considered, pursuant to the stated legislative intent of subsection (1), to be maximum rates; local governments may legislate on the subject of allowances, though they may not exceed them. Municipalities and their agencies may also exempt themselves from the provisions of s. 112.061, F.S., by creating its own per diem and travel expense policy and thus are not bound by the provisions of s. 112.061, F.S.<sup>7</sup> Thus this bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The terms "state agency," "state traveler," "nonstate agency," and "nonstate traveler" are not defined in either the bill or law. Defining these terms may clarify which entities belong in which group; however, there is no difference between the rates for state travelers and nonstate travelers, so the distinction does not seem to be necessary.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At the March 16, 2005, meeting of the Governmental Operations Committee, the committee adopted an amendment and reported the bill favorably with a committee substitute.

The amendment set specific amounts for the allowances provided to employees rather than ranges in which various public officers could choose an amount to set for the agencies under their control. This amendment was amended to allow participants in the state group health insurance program's plans the option of using an open magnetic resonance imaging service when magnetic resonance imaging services were deemed appropriate.

---

<sup>7</sup> Section 166.021(10), F.S.

At the April 15, 2005, meeting of the Fiscal Council, the council adopted an amendment and reported the bill favorably with a committee substitute.

The amendment:

- Removed the requirement for the Chief Financial Officer to annually adjust the per diem rates.
- Provided for the permanent exclusion for Class C Travel from per diem reimbursement.